Ga. 598. There is a distinction to be noted between insanity as a defense and as going to the free and voluntary character of a confession. It is quite conceivable that the defendant may have been in full possession of his faculties at the time the crime was alleged to have been committed, yet have become insane before making the confession. Had the defendant in the principal case been proved to have been insane at the time the confession was made the question would then have arisen whether the insanity went to the free and voluntary character of the confession so as to render it inadmissible. No case on this bare point appears to have been decided, but it would seem best to dispose of it by analogy to a case of intoxication, treating the extent of the insanity and its effect upon the mind as questions to be submitted to the jury along with the confession, to be considered by them in determining its weight. See note to *Lindsay* v. *State, supra.*

EVIDENCE—NOT ERROR FOR PROSECUTOR TO WITHDRAW WITNESS AND PRIVATELY REFRESH HIS RECOLLECTION.—In a criminal prosecution a witness who had testified before the grand jury manifested a hazy recollection. The prosecutor was permitted to withdraw the witness and refresh her memory as to her previous testimony. No actual prejudice appearing, it was *held* not to be error. *State* v. *Henson* (Mo., 1921), 234 S. W. 832.

It is well settled that previous testimony may be used to refresh a witness's recollection. *State* v. *Martin,* 94 N. J. L. 139; 1 WIGMORE ON EVIDENCE, § 737. The prior testimony, however, should not be read in the presence of the jury. *State* v. *Walters,* 145 La. 209; *Kirkland* v. *State,* 86 Tex. Cr. R. 595; *State* v. *DePriest* (Mo.), 232 S. W. 83. The regular method of refreshing the witness's memory in this way, as is stated in the principal case, is to withdraw the jury. With the privileges which the law gives by way of various methods of stimulating the recollection of a witness while on the witness stand, there would seem to be no reason except a sinister one for withdrawing a witness to refresh recollection. The method adopted in the instant case lends itself too conveniently to the coaching of an unscrupulous witness by an unscrupulous attorney not to be viewed with suspicion. It would not be surprising to find an appellate court presuming prejudice and directing a new trial.

EVIDENCE—OPINION BY AN EXPERT WITNESS ON "THE VERY ISSUE" INADMISSIBLE.—In a dentistry malpractice case the testimony of a family physician, who saw the operation complained of, that it was unskillful, was admitted. *Held,* reversible error as invading the jury's province. *Patterson* v. *Howe* (Ore., 1922), 202 Pac. 225.

While a general rule excluding opinion evidence may have been desirable, it was inevitable that there should result a relaxation necessitated by the practical conditions under which trials are had. It frequently happens in practice that the facts which surround a question are so complicated or so technical that the jury may not be able to grasp them or draw the proper inference. The principle, then, upon which opinion evidence by experts became admissible was assistance to the jury. The limit upon this admissi-